

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Henry Manayan was elected as a member of the Milpitas City Council in 1994. Thereafter, Respondent Manayan was elected as the Mayor of Milpitas in 1996, and re-elected as the Mayor in 1998 and 2000. Respondent Manayan completed his final third term as Mayor in December 2002, and is no longer in public office. For his 1998 mayoral campaign, Respondent Manayan formed the controlled committee, Manayan for Mayor. In August 1999, Respondent Manayan formed another controlled committee, Manayan for Mayor 2000, to support his 2000 re-election campaign. In addition to filing required campaign statements for his controlled committees, as the mayor and as a member of the Milpitas City Council, Respondent Manayan was required to file statements disclosing his reportable economic interests.

Between 1999 and 2001, Respondent Manayan and his controlled committees failed to timely file three semi-annual campaign statements. In addition, Respondent Manayan failed to timely file his 1999 annual and leaving office statements of economic interests.

For the purposes of this stipulation, Respondents' violations of the Political Reform Act (the "Act")<sup>1</sup> are stated as follows:

- COUNT 1: Respondents Henry Manayan and Manayan for Mayor failed to timely file a semi-annual campaign statement for the reporting period January 1, 1999 through June 30, 1999, by the August 2, 1999 due date, in violation of section 84200, subdivision (a) of the Government Code.
- COUNT 2: Respondents Henry Manayan and Manayan for Mayor failed to timely file a semi-annual campaign statement for the reporting period July 1, 1999 through December 31, 1999, by the January 31, 2000 due date, in violation of section 84200, subdivision (a) of the Government Code.
- COUNT 3: Respondents Henry Manayan and Manayan for Mayor 2000 failed to timely file a semi-annual campaign statement for the reporting period October 22, 2000 through December 31, 2000, by the January 31, 2001 due date, in violation of section 84200, subdivision (a) of the Government Code.
- COUNT 4: Respondent Henry Manayan failed to timely file his statement of economic interests for calendar year 1999, by the April 3, 2000 due date, in violation of section 87203 of the Government Code.
- COUNT 5: Respondent Henry Manayan failed to timely file his leaving office statement of economic interests, by the January 3, 2003 due date, in violation of section 87204 of the Government Code.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

## **SUMMARY OF THE LAW**

### **Duty to File Semi-Annual Campaign Statements**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures affecting election campaigns are fully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Section 84200 requires candidates and their controlled committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year. Under section 84214, as interpreted by regulation 18404, candidates and their controlled committees may only end their filing obligations by filing a statement of termination.

### **Duty to File Statements of Economic Interests**

In order to avoid conflicts of interest, section 81002, subdivision (c) provides that the assets and income of public officials, which may be materially affected by their official actions, should be disclosed and in appropriate circumstances the officials should be disqualified from acting.

Section 87200 lists the specific public officials who are required to file a statement of economic interests under provisions of the Act, including mayors and members of city councils. Section 87203 states that each person holding an office listed in section 87200 must file an annual statement of economic interests disclosing investments and interests in real property held, and income received, at any time since the previous statement was filed.

Regulation 18723, subdivision (b)(2) provides that the deadline for filing an annual statement of economic interests for mayors and members of city councils is April 1<sup>st</sup> of the following year.

Section 87204 states that every person who leaves an office specified in section 87200 shall, within thirty days of leaving the office, file a statement disclosing his or her investments, interests in real property, and sources of income during the period since the previous statement was filed under sections 87202 and 87203.

## **SUMMARY OF THE FACTS**

Respondent Manayan served as a member of the Milpitas City Council from 1994 through 1996, and served as the Mayor of Milpitas from 1996 through 2002. During this time period, Respondent Manayan formed two controlled committees as part of his mayoral election campaign – Manayan for Mayor and Manayan for Mayor 2000. After his 1998 election to the office of Mayor of Milpitas, Respondents Manayan and Manayan for Mayor were required to file semi-annual campaign statements disclosing the committee's activities until the committee was terminated. Likewise, after the re-election in November 2000, Respondents Manayan and Manayan for Mayor 2000 were required to file semi-annual campaign statements disclosing the committee's activities until the committee was

terminated. In addition, as the Mayor of Milpitas and as a member of the Milpitas City Council, Respondent Manayan was required to file annual statements of economic interests and a leaving office statement of economic interests within thirty days of leaving elected office.

#### COUNT 1

##### **Failure to Timely File a Semi-Annual Campaign Statement**

For the reporting period January 1, 1999 through June 30, 1999, Respondents Manayan and Manayan for Mayor were required to file a semi-annual campaign statement by August 2, 1999, since July 31 fell on a Saturday that year. After receiving several notices from the Milpitas City Clerk, Respondents eventually filed the campaign statement on November 30, 2000, over fifteen months late, disclosing that they had received contributions totaling \$1,612 and had made expenditures totaling \$9,386. The campaign statement indicated that there was only \$2.88 left as ‘cash on hand’ in the committee’s bank account. In the upper left hand corner of the first page of this campaign statement, Respondents checked the box “Termination Statement,” but failed to attach a properly executed Form 415 termination statement, as was required by the Act.

By failing to timely file a semi-annual campaign statement for the reporting period January 1, 1999 through June 30, 1999, by the August 2, 1999 due date, as set forth above, Respondents Manayan and Manayan for Mayor committed a violation of section 84200, subdivision (a).

#### COUNT 2

##### **Failure to Timely File a Semi-Annual Campaign Statement**

For the reporting period July 1, 1999 through December 31, 1999, Respondents Manayan and Manayan for Mayor were required to file a semi-annual campaign statement by January 31, 2000. The Milpitas City Clerk sent six written notices and staff from the Enforcement Division of the Fair Political Practices Commission (the “Commission”) made two telephone contacts and sent one letter to Respondents, requesting that they file the delinquent semi-annual campaign statement for the reporting period July 1, 1999 through December 31, 1999. Despite these numerous contacts, Respondent did not file the semi-annual campaign statement until April 17, 2003, over three years late. The campaign statement disclosed that the \$2.88 remaining in the committee’s bank account since the last campaign filing had been forfeited to the bank, thereby closing the committee’s bank account.

On April 17, 2003, Respondents Manayan and Manayan for Mayor also filed delinquent semi-annual campaign statements for reporting periods between January 1, 2000 and December 31, 2002, which disclosed no campaign activity for the committee. On the same date, Respondents Manayan and Manayan for Mayor filed a statement of termination for Respondent Manayan for Mayor, thereby ending the reporting responsibilities of Respondents.

By failing to timely file a semi-annual campaign statement for the reporting period July 1, 1999 through December 31, 1999, by the January 31, 2000 due date, as set forth above, Respondents Manayan and Manayan for Mayor committed a violation of section 84200, subdivision (a).

### COUNT 3

#### **Failure to Timely File a Semi-Annual Campaign Statement**

Following the 2000 mayoral election, Respondents Manayan and Manayan for Mayor 2000 were required to file a semi-annual campaign statement for the reporting period October 22, 2000 through December 31, 2000, by January 31, 2001. Respondents Manayan and Manayan for Mayor 2000 properly filed a statement of organization and two pre-election campaign statements prior to the November 7, 2000 election. Thereafter, despite repeated notices from the Milpitas City Clerk and the Commission's Enforcement Division staff, Respondents Manayan and Manayan for Mayor 2000 failed to file a semi-annual campaign statement for the reporting period October 22, 2000 through December 31, 2000 until August 10, 2001, over six months late. The semi-annual campaign statement revealed that Manayan for Mayor 2000 received contributions totaling \$29,730, and made expenditures totaling \$20,705, during the reporting period.

By failing to timely file a semi-annual campaign statement for the reporting period October 22, 2000 through December 31, 2000, by the January 31, 2001 due date, as set forth above, Respondents Manayan and Manayan for Mayor 2000 committed a violation of section 84200, subdivision (a).

### COUNT 4

#### **Failure to Timely File an Annual Statement of Economic Interests**

As the Mayor of Milpitas, Respondent Manayan was required to file annual statements of economic interests, disclosing, among other things, his investments, interests in real property and sources of income. Respondent Manayan's 1999 annual statement of economic interests was due on April 3, 2000.<sup>2</sup>

Despite a written notice from the Milpitas City Clerk prior to the filing deadline, Respondent Manayan failed to file his 1999 annual statement of economic interests by the April 3, 2000 due date. Thereafter, Respondent Manayan received three written notices from the Commission's Technical Assistance Division staff regarding the delinquent filing. On September 12, 2001, Respondent filed his 1999 statement of economic interests, nearly 1½ years late, disclosing that he had no reportable interests.

By failing to timely file his 1999 annual statement of economic interests by the April 3, 2000 due date, as set forth above, Respondent Manayan committed a violation of section 87203.

### COUNT 5

#### **Failure to Timely File a Leaving Office Statement of Economic Interests**

As the Mayor of Milpitas, Respondent Manayan was required to file a leaving office statement of economic interests within thirty days of leaving office, disclosing his investments, interests in real property, and sources of income held or received during the year. Respondent Manayan left his position as the Mayor of Milpitas on December 2, 2002. As such, he was required to file his leaving office statement of economic interests on or before January 3, 2003.

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<sup>2</sup> Under regulation 18116, Respondent Manayan was required to file his 1999 annual statement of economic interests by Monday April 3, 2000, because the April 1<sup>st</sup> date fell on a Saturday that year.

Respondent Manayan received a notice from the Milpitas City Clerk prior to the filing deadline, and two written notices from the Commission's Technical Assistance Division staff, regarding the filing of his leaving office statement of economic interests. On August 6, 2004, Respondent Manayan filed his leaving office statement of economic interests, over 1½ years after it was due, disclosing that he had some investment interests. Respondent Manayan also filed a copy of another leaving office statement of economic interests signed on January 3, 2003 that he claimed to have mailed in December 2002. Neither the Commission's Technical Assistance Division nor the Milpitas City Clerk had a record of receiving this earlier dated leaving office statement of economic interests, and Respondent Manayan did not have proof that it had been mailed.

By failing to timely file his leaving office statement of economic interests by the January 3, 2003 due date, as set forth above, Respondent Manayan committed a violation of section 87204.

### **CONCLUSION**

The facts of this case show a history of repeated delinquent filings violating the Act's campaign reporting and financial disclosure requirements. Respondents received numerous written and verbal notices from the Milpitas City Clerk's office and from Commission staff regarding their filing duties, but did not file three semi-annual campaign statements and two statements of economic interests until well after they were due.

With regard to Counts 1 and 2, the typical administrative penalty for failing to timely file a semi-annual campaign statement has historically ranged from \$1,000 to \$1,500 per statement, for violations occurring before January 1, 2001. With regard to Count 1, Respondents filed the semi-annual campaign statement prior to any contact by the Enforcement Division. With regard to Count 2, the semi-annual campaign statement disclosed minimal campaign activity. In addition, since neither campaign statement appears particularly aggravated, an administrative penalty in the lower to middle of the penalty range is appropriate.

The typical administrative penalty for failing to timely file a semi-annual campaign statement has ranged from \$1,000 to \$2,500 per statement, for violations occurring after January 1, 2001. With regard to Count 3, this violation concerned a semi-annual campaign statement filing that does not appear to be particularly aggravated. As such, an administrative penalty in the lower to middle of the penalty range is appropriate.

With regard to Counts 4 and 5, the failure to timely file an annual or leaving office statement of economic interests until after significant Commission action has historically ranged from \$500 to \$1,000. Respondent Manayan received numerous written and verbal notices regarding the filing of his statements of economic interests, but he failed to file them until nearly 1 ½ years after they were due. As such, an administrative penalty in the middle to upper end of the penalty range is appropriate.

This matter consists of five counts, which carry a maximum possible administrative penalty of Sixteen Thousand Dollars (\$16,000). Based on facts of this case, and the mitigating and aggravating circumstances addressed herein, the agreed upon total administrative penalty of Five Thousand Dollars (\$5,000) is justified.